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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,197	03/06/2000	David Page	109140-0002	8386

7590

04/19/2002

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EXAMINER

O CONNOR, GERALD J

ART UNIT

PAPER NUMBER

2167

DATE MAILED: 04/19/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.



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03/29/2002

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Office Action Summary

Application No.
09/519,197

Applicant(s)

Page et al.

Examiner

O'Connor

Art Unit

2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on March 6, 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 20) ☐ Other:

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the orders placed remotely by the purchaser, the products, the database, the record, the purchaser, the plurality of contacts, the contact information, the instructions executable on the client machine, the interface rendered on the client machine, the message pertaining to the order, the fulfillment of the order, the transmitting of the message to the at least one designated contact, the monitoring of the at least one contact, the subsequent purchase of the product by the at least one contact, the reward of the purchaser, the catalog of products, the goods, the services, the goods and services, the configuration of the client machine to display the interface and to transmit to the server the purchase selections, the data identifying a credit-card account, the processing of the order, the charging of the credit-card account, the server configuration to check for credit entries, the server adjustment of the order based on any located credit entries in the purchaser's database record, the interface accepting the message after the order has been fulfilled, the interface accepting the message with the order, the user, the list of products embedded in the instructions, the instructions comprising an address, the method step of storing a record identifying the purchaser, the method step of causing the client machine to render an interface, the interface, the method step of rewarding the purchaser, the method step of storing data identifying a credit-card account

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of the purchaser, and the method step of charging the account in processing the order, must all be shown or the features cancelled from the claims. No new matter should be entered.

Claim Rejections - 35 USC § 112, Second Paragraph

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The (apparatus) claims are indefinite for the liberal use of functional and/or operational language. The manner of operating a device does not differentiate an apparatus claim from the prior art. Therefore, apparatus claims which recite such extraneous limitations are considered indefinite, since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired, in that a question or doubt is raised as to whether applicant considers features introduced by such language to be, (a) merely exemplary of the usage of the device, and therefore not required, or (b) a required feature of the claims. See MPEP § 2114.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 8, 10-14, 19, and 21-25 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Harrington.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7, 9, 15-18, and 20 are rejected under 35 U.S.C. 103(a) as unpatentable over Harrington, in view of Kanter.

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Harrington shows an electronic commerce system comprising a server, a database, and client computers, operating over the Internet, wherein customers can view from the database the goods and/or services offered for sale by various vendors/suppliers, and place orders to purchase those goods and/or services, as applied above in the rejection of claims 8, 10-14, 19, and 21-25 under 35 U.S.C. 102(a), but the system of Harrington fails to include a referral recognition system to offer incentives to customers in exchange for successful referrals/recommendations.

However, Kanter discloses a referral recognition system where customers are offered incentives/rewards in order to transmit messages to contacts encouraging the contacts to also make the same purchases, and the system of Kanter monitors the contacts to determine if the contact then makes a purchase, in order to credit the original purchaser with the promised reward.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Harrington so as to include a referral recognition system for an incentive reward program, in accordance with the teachings of Kanter, in order to generate increased sales by incentivizing the customers to act as sales agents by making recommendations to contacts to purchase the goods and/or services.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to the disclosure.
9. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, Jerry O'Connor, whose telephone number is (703) 305-1525.

GJOC



March 20, 2002

 3/25/02

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